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PAUL REICHE III and ROBERT FREDERICK FORD

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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

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14 STARDOCK SYSTEMS, INC.,

Case No. 4:17-CV-07025-SBA

15 Plaintiff,

16 v.

17 PAUL REICHE III and ROBERT
FREDERICK FORD,

**DECLARATION OF STEPHEN C.
STEINBERG IN SUPPORT OF MOTION
TO QUASH SUBPOENA TO SINGER
ASSOCIATES, INC.**

18 Defendants.

Hearing Date:
Hearing Time:

20

PAUL REICHE III and ROBERT
FREDERICK FORD,

Complaint Filed: Dec. 8, 2017
Trial Date: June 24, 2019

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Counter-Claimants,

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v.

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STARDOCK SYSTEMS, INC.,

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Counter-Defendant.

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1 I, Stephen C. Steinberg, declare as follows:

2 1. I am an attorney at law admitted to practice in all courts of the State of California.
 3 I am a principal in the law firm of Bartko, Zankel, Bunzel & Miller, attorneys of record for
 4 Defendants and Counter-Claimants Paul Reiche III (“Reiche”) and Robert Frederick Ford (“Ford”)
 5 (together, “Reiche and Ford”) in the above-captioned matter. The matters in this Declaration are
 6 true of my own personal knowledge, and if called upon as a witness, I could and would
 7 competently testify thereto.

8 2. Attached hereto as **Exhibit 1** is a copy of an online public forum hosted by
 9 Stardock at <https://forums.starcontrol.com/485378/ghosts-of-the-precursors>, as of April 24, 2018,
 10 which was initiated by Stardock’s owner and CEO, Brad Wardell, on October 9, 2017. I
 11 understand that Mr. Wardell posts to Stardock’s forums under the name “Frogboy,” and his posts
 12 are bracketed in red in this exhibit.

13 3. Attached hereto as **Exhibit 2** is a copy of an online public forum hosted by
 14 Stardock at <https://forums.starcontrol.com/486284/stardock-response-to-paul-and-fred-update>, as
 15 of April 25, 2018, which was initiated by Mr. Wardell on December 2, 2017. Mr. Wardell’s posts
 16 under the name “Frogboy” are bracketed in red in this exhibit.

17 4. Attached hereto as **Exhibit 3** is a copy of an online public forum hosted by
 18 Stardock at <https://www.stardock.com/games/starcontrol/article/487690/qa-regarding-star-control-and-paul-and-fred>, as of April 24, 2018, which was initiated by Stardock’s Vice President of
 19 Marketing and Strategic Partnerships, Kevin Unangst, under the name “DeepSpaceNine.”
 20 Mr. Wardell’s posts under the name “Frogboy” are bracketed in red in this exhibit.

22 5. Attached hereto as **Exhibit 4** is a copy of an online public forum hosted by social
 23 media platform, Reddit, at
 24 https://www.reddit.com/r/starcontrol/comments/75dmw9/official_sequel_to_urquan_masters_ghos_ts_of_the/, as of April 24, 2018, which was initiated by Mr. Wardell in October 2017. I
 25 understand that Mr. Wardell posts on Reddit under the name “Draginol,” and his posts are
 26 bracketed in red in this exhibit.

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1 6. Attached hereto as **Exhibit 5** is a copy of an online public forum hosted by social
 2 media platform, Reddit, at
 3 https://www.reddit.com/r/starcontrol/comments/8120uu/star_control_legal_issues_megathread/, as
 4 of April 24, 2018. Mr. Wardell's posts under the name "Draginol" are bracketed in red in this
 5 exhibit.

6 7. Attached hereto as **Exhibit 6** is a copy of an online public forum hosted by The Ur-
 7 Quan Masters ("UQM") open-source project at <http://forum.uqm.stack.nl/index.php?topic=6968.0>,
 8 as of April 24, 2018, which was initiated by Mr. Wardell on October 10, 2017. I understand that
 9 Mr. Wardell posts to the UQM forums under the name "Frogboy," and his posts are bracketed in
 10 red in this exhibit.

11 8. Attached hereto as **Exhibit 7** is a copy of an online public forum hosted by The Ur-
 12 Quan Masters ("UQM") open-source project at <http://forum.uqm.stack.nl/index.php?topic=7015.0>,
 13 as of April 24, 2018. Mr. Wardell's posts under the name "Frogboy" are bracketed in red in this
 14 exhibit.

15 9. Attached hereto as **Exhibit 8** is a copy of Mr. Wardell's public posts on social
 16 media platform, Twitter, under the name "Draginol" from October 8, 2017 through April 24, 2018,
 17 many of which relate to Reiche, Ford, and the dispute and case between them and Stardock.

18 10. Attached hereto as **Exhibit 9** is a copy of an October 19, 2018 article from a
 19 publication called Ars Technica entitled *Stardock CEO talks Star Control: Origins' player*
 20 *crafting and upcoming beta*, which reports on an interview with Mr. Wardell.

21 11. In total, the aforementioned exhibits reflect hundreds, perhaps even thousands, of
 22 public communications by Stardock beginning in October 2017 before this lawsuit was filed and
 23 continuing through the present day, concerning Reiche and Ford, and the dispute, settlement
 24 negotiations, and lawsuit between them and Stardock. In addition, these exhibits are only a
 25 sample of the public relations efforts undertaken by Stardock related to this matter.

26 12. In response to Stardock's extensive efforts to generate negative press about Reiche
 27 and Ford in conjunction with this lawsuit, in mid-February 2018, my firm retained Singer
 28 Associates, Inc. ("Singer") to provide communications and public relations counseling services

1 related to this case. Singer provided input on legal strategy including Reiche and Ford's Answer
 2 and Counterclaim, and the initial public communications regarding the case to try to counteract
 3 Stardock's numerous false and negative statements. Singer had a handful of communications with
 4 reporters from publications writing articles about the case, including Ars Technica identified
 5 above, assisted with a press release concerning the case, and made several posts linking to such
 6 articles and press release in late February and early March 2018 (which are being produced), in
 7 conjunction with Reiche and Ford's filing of their Answer and Counterclaim. That is the full
 8 extent of Singer's services related to this case and Singer is no longer providing such services.

9 13. Attached hereto as **Exhibit 10** is a copy of a subpoena for documents served on
 10 Singer on or about April 3, 2018, and calling for production of documents by April 13.

11 14. I was on vacation from March 31 through April 8, 2018, so shortly after I returned,
 12 in the morning on April 10, I emailed Stardock's lead counsel, Rob Weikert, asking to meet and
 13 confer concerning objections to the subpoena either that day or the following day. Mr. Weikert
 14 said he would call me on April 10 or 11, but I did not hear from him, and I was traveling on April
 15 12-13.

16 15. We finally met and conferred in-person on April 18, 2018, and discussed Reiche
 17 and Ford's and Singer's objections to the subpoena on the grounds set forth in the present motion.
 18 In an effort to compromise, and because Mr. Weikert otherwise refused to grant us an extension of
 19 time to file the present motion to April 27, Singer agreed to produce all posts, comments, or
 20 statements made by Singer in any internet or public forum, or other communications not subject to
 21 the attorney-client privilege and/or work-product doctrine, *e.g.* with reporters, related to the parties
 22 or the case. Such documents will be produced concurrently with this motion.

23 16. Attached hereto as **Exhibit 11** is a log of the documents responsive to the subpoena
 24 in Singer's possession that are being withheld based on the attorney-client privilege and/or
 25 attorney work-product doctrine. These include communications regarding drafts of and potential
 26 exhibits to the Answer and Counterclaim, strategy for responding to initial press inquiries, lists of
 27 reporters and press outlets compiled at counsel's request, and drafts of a press release regarding
 28 the case that was jointly prepared for potential use in this litigation. Many of these materials also

1 contain "mental impressions, conclusions, opinions, or legal theories" of myself and/or my
2 co-counsel.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct, and this Declaration was executed this 27th day of April 2018, at
5 San Francisco, California.

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7 */s/ Stephen C. Steinberg*
8 STEPHEN C. STEINBERG
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